



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

Date Amended:	Enrolled	Bill No:	AB 1457
Tax:	Property	Author:	Keeley
Board Position:	Support	Related Bills:	

BILL SUMMARY

This bill would relieve mobilehome park residents of additional property tax liability for escape assessments for prior tax years due to pro rata changes in ownership of tenant owned mobilehome parks.

ANALYSIS

Current Law

Existing law excludes certain transfers of mobilehome parks from change in ownership reassessments if the tenants who rent the individual spaces of the mobilehome park purchase it. Qualifying conversions to resident ownership permit the residents of the park to retain the base year value of the previous owner, rather than triggering a reassessment of the mobilehome park to current market value. Existing law also provides that once the park has been excluded from a change in ownership and the park has not been converted to condominium, limited equity, or cooperative ownership, then any transfer (after January 1, 1989) of the shares of stock or ownership interests in the entity which acquired the park results in a pro-rata change in ownership in the park real property for the portion of ownership interests which have transferred. In other words, once the residents who participated in the original purchase of the park sell or otherwise transfer their ownership interests in the park, that particular share in the park would be reassessed to current market value.

Proposed Law

This measure would amend Revenue and Taxation Code Section 62.1 to provide that in instances where an assessor failed to timely reappraise subsequent pro rata changes in ownership of a resident-owned mobilehome park that had previously been granted a change in ownership exclusion, the assessor will correct the assessment on a prospective basis commencing with the January 1, 2002 lien date. It would also provide that, in this specific situation, escape assessments, and any associated supplemental assessment, for prior tax years may not be levied for pro rata changes in ownership that occurred between January 1, 1989, and January 1, 2002. Additionally, any outstanding taxes that may have been levied for failure to timely reappraise these pro rata changes in ownership between January 1, 2000 and January 1, 2002 would be cancelled. However, any taxes paid by a mobilehome park for these escape assessments and associated supplemental assessment before January 1, 2002 would not be refunded.

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Assessors that correct base year values would be required to notify the parks that its residents may be eligible for the property tax assistance programs offered by the Controller (the Property Tax Postponement Program) or the Franchise Tax Board (the Homeowner Assistance Program). Additionally, manufactured parks would provide any information to assessors needed to correct these assessments.

This bill would also amend Section 62.1 to add a requirement that if resident-owned mobilehome parks do not use recorded deeds to transfer ownership interests in the spaces or lots, the park must file by February 1 of each year, a report with the county assessor's office containing the following information:

1. The name and mailing address of each owner, stockholder, or holder of an ownership interest in the mobilehome park.
2. The situs address, including space number, of each unit.
3. The date that the ownership interest was acquired.
4. If the unit is a manufactured home, the Department of Housing and Community Development decal number or serial number, or both, and whether the manufactured home is subject to the vehicle license fee or the local property tax.

In addition to the annual report filed by the park, this bill would require any person that acquires an interest in the park to file a change in ownership statement within 30 days.

In General

California's system of property taxation under Article XIII A of the State Constitution (Proposition 13) values property at its 1975 fair market value, with annual increases limited to the amount of inflation or 2%, whichever is less, until the property changes ownership or is newly constructed. At the time of the ownership change or new construction, the value of the property for property tax purposes is redetermined based on current market value. The value initially established, or redetermined where appropriate, is referred to as the "base year value." Thereafter, the base year value is subject to annual increases for inflation. This value is referred to as the "factored base year value."

Exclusion for Sale of Undivided Mobilehome Park to Resident Owned Entity-

§62.1(a): A transfer on or after January 1, 1985 of a mobilehome park to a specified legal entity, formed by the tenants of a park, for purposes of purchasing the park, is excluded from change in ownership provided that any transfer of the park on or after January 1, 1989 involves 51% ownership of the acquiring legal entity by tenants renting at least 51% of the spaces in the park prior to the transfer. Under Section 62.1(c), if the park has been excluded from a change in ownership and the park has not been converted to condominium, limited equity, or cooperative ownership, then any transfer (after January 1, 1989) of the shares of stock or ownership interests in the entity which acquired the park in accordance with Section 62.1(a), results in a pro-rata change in ownership in the park real property equal to the portion of ownership interests which have transferred. As an exception, this pro-rata change in ownership does not take place, if the transfers are for the purpose of converting the park to condominium or cooperative ownership.

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Exclusion for Sale of Individual Rental Spaces to Individual Residents- §62.1(b):

Transfers of rental spaces in a mobilehome park to individual tenants of the spaces are also excluded from change in ownership provided that (1) at least 51% of the spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants form, within one year after the first purchase of a rental space by a tenant, a resident organization, defined in Health & Safety Code §50781. If the tenant(s) notify the assessor of their intent to comply with these conditions, there is no reappraisal of any spaces purchased by individual tenant(s) during that time period. The assessor may levy escape assessments, if the requirements for the exclusion are not met. This exclusion applies only to parks in operation for five years or more, and to qualifying transfers on or after January 1, 1985.

Exclusion for Interim Holding By Non-Resident Owned Entity - §62.2: In some cases, prior to the transfer to the tenants directly or to an entity owned by the tenants, there is an interim transfer of the mobilehome park to a non-tenant owned entity. This entity helps facilitate the purchase and conversion to a resident-owned park. Section 62.2 allows for application of the change of ownership exclusion in Section 62.1 upon the occurrence of an “interim transfer” of the mobilehome park to an entity (including a governmental entity) not owned by the park residents. This exclusion permits an initial transfer to an entity not formed by the tenants, followed within 18 months, by a transfer to one that is formed by the tenants or to the individual tenants (§62.1, above). For parks originally transferred on or after January 1, 1993, the interim time period is extended to 36 months, and for parks located within disaster areas, the time period is extended to 76 months.

COMMENTS:

1. **Sponsor and Purpose.** The author is the sponsor of this measure. The author's office notes that after the original change in ownership exclusion was created, the Legislature changed the law to provide that pro rata changes of ownership in resident-owned mobilehome parks would be subject to reassessment. This subsequent legislation was not well publicized, with many homeowners and assessors reportedly unaware of the change. The author's office states that because sales of shares in these mobilehome parks do not generate paperwork that would normally be filed with an assessor, assessors who were unaware of the new law had no mechanism by which to become aware of these changes in ownership.
2. **Amendments.** The September 7 amendments specifically addressed the situation of Santa Clara County, the only county to have completed the reassessment process for previously undiscovered pro rata changes in ownership prior to the introduction of this bill. The amendments provide that outstanding taxes that have yet to be paid will be cancelled, but any payments made prior to the effective date of this legislation will not be refunded. The September 7 amendments also limit notification of property tax assistance programs to the parks themselves, rather than to all residents in the park, to eliminate the need for counties to claim cost reimbursement for sending these notices.

The June 21 amendments, in part, amended subparagraph (4) of paragraph (A) of subdivision (b) to provide that the provisions of this bill apply to any form of tenant

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ownership, (i.e. nonprofit corporation, stock cooperative, limited equity stock cooperative, or other entity formed by tenants) by specifying that its provisions apply to any change in ownership exclusion specified in "subdivision (a)." Various paragraph and subdivision letter designations were also renumbered.

The May 31 amendments require the assessor to notify residents of the park of the property tax assistance programs. (This was subsequently amended to limit notification to parks.) The amendments also specified that this bill would not apply to assessments levied prior to January 1, 2002. (This was subsequently amended out.)

3. **Statement of Legislative Intent.** This bill includes a statement of legislative intent which states, in part, that "[i]n 1988, the Legislature changed, for purposes of property taxation, the method for determining changes in ownership of resident-owned mobilehome parks, but failed to specify a notice process for those changes in ownership. The Legislature finds and declares, as a result, that there exists a situation in which the failure to timely assess changes in ownership in resident-owned mobilehome parks has or will result in the issuance of escape and supplemental assessments in an unfair and inequitable manner. Residents of those parks have been or will be faced with unforeseen tax bills in significant amounts that have imposed or will impose an unfair and unreasonable burden on the residents of the parks, many of whom are persons of limited means or fixed incomes. The Legislature further finds and declares that it is in the public interest to avoid the unfair and unreasonable burden on the park residents that results from escape and supplement assessments in this situation."
4. **Many counties have recently discovered that they have not reassessed resident owned mobilehome parks for pro rata changes in ownership.** Consequently, these counties have contacted the resident owned parks to explain the situation and request information necessary to correct the assessments. In addition to increasing the assessed value of the park to reflect the subsequent pro rata changes in ownership, current law would also require that increased taxes be levied for at least the last four years. These mobilehome park residents have been concerned with the financial impact of these escape assessments as well as the increased future tax liability once the pro rata changes in ownership are processed.
5. **Values to be Corrected Prospectively.** This bill would require that county assessors revalue resident-owned mobilehome parks beginning on January 1, 2002 so that their values reflect any changes in ownership between January 1, 1989 and January 1, 2002 that were not previously reflected in the value of the property. It would also provide that any escape or supplemental assessment would not be levied for any change in ownership in a resident-owned mobilehome park that occurred between January 1, 1989 and January 1, 2002 if the assessor failed to timely discover the pro rata change in ownership after the initial exclusion.
6. **Annual Reporting Requirements.** This bill would establish a mechanism by which assessors will be notified of future ownership changes in resident-owned mobilehome parks to ensure that this situation will not occur again.

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COST ESTIMATE

With respect to property taxes, the Board would incur some minor absorbable costs in informing and advising local county assessors, the public, and staff of the law changes.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

The change in ownership provisions have not been uniformly applied. Some counties have been considering such transfers as changes in ownership and increasing the assessed value of the mobilehome park on a pro rata basis. Other counties have not done so and could issue escape or supplemental assessments against the resident-owned mobilehome parks.

A survey of the counties that have resident-owned mobilehome parks indicates that 12 counties have not considered transfers at these parks to be pro rata changes in ownership. Based on information from these counties, it is estimated that the amount of escape or supplemental assessments that could be issued would amount to \$2.4 million in property tax revenue.

Revenue Summary

The revenue loss from prohibiting escape or supplemental assessments for pro rata changes of ownership in mobilehome parks between January 1989 and January 2002 could amount to \$2.4 million. This would be a one-time loss. There would be no ongoing revenue impact.

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